

STAFF REPORT
October 8, 2009

No. 09PD047 - Planned Commercial Development - Initial and Final Development to include an on-sale liquor establishment **ITEM 32**

GENERAL INFORMATION:

APPLICANT/AGENT	Lisa Holbrook
PROPERTY OWNER	Tensleep, LLC
REQUEST	No. 09PD047 - Planned Commercial Development - Initial and Final Development to include an on-sale liquor establishment
EXISTING LEGAL DESCRIPTION	Lots 1 thru 5 of Block 88 of the Original Town of Rapid City, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.4 acres
LOCATION	201 Main Street
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commercial District
South:	General Commercial District
East:	General Commercial District
West:	General Commercial District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	9/18/2009
REVIEWED BY	Karen Bulman / Ted Johnson

RECOMMENDATION:

Staff recommends that the Planned Commercial Development - Initial and Final Development to include an on-sale liquor establishment be approved with the following stipulations:

1. The on-sale liquor establishment shall be operated in conjunction with a full service restaurant;
2. An Exception is hereby granted to allow zero off-street parking spaces to be provided in lieu of the 123 required spaces; however, a change in use or building alteration increasing the parking requirement shall require a Major Amendment to the Planned Commercial Development;
3. The proposed structure shall conform architecturally to the plans and elevations submitted. Any changes to expand the use or to expand the property shall require that a Major Amendment to the Planned Commercial Development be submitted for review and approval;

STAFF REPORT
October 8, 2009

No. 09PD047 - Planned Commercial Development - Initial and Final Development to include an on-sale liquor establishment **ITEM 32**

4. All outdoor lighting shall be reflected within the property boundaries so as to not shine onto adjoining properties and rights-of-way to preclude creating a hazard to the passing motorist or constituting a nuisance of any kind;
5. A Sign Permit shall be obtained prior to any future signs being placed on the subject property and all signage shall comply with the Sign Code Regulations;
6. The proposed structure shall conform architecturally to the plans and elevations submitted. Any expansion to the use will require a Major Amendment to the Initial and Final Planned Commercial Development;
7. An Exception is hereby granted to eliminate the screening requirement for the dumpster. However, any future expansions or changes in use may require the dumpster to be screened;
8. All applicable provisions of the International Fire Codes shall be continually met;
9. A full service restaurant with on-sale liquor, offices and retail commercial uses shall be allowed on the property unless otherwise specifically authorized as a Major Amendment to the Commercial Development Plan; and,
10. The Planned Commercial Development shall expire if the use is not undertaken and completed within two years of the date of approval by the Planning Commission, or if the use as approved has ceased for a period of two years.

GENERAL COMMENTS: The applicant is requesting a Planned Commercial Development – Initial and Final Development Plan to authorize the existing uses on the site and to allow an on-sale liquor establishment in conjunction with a full service restaurant. The restaurant establishment, “The Beanery”, currently occupies a 4,453 square foot portion of the lower level of the Creamery Mall at 201 Main Street. There is an additional 1,020 square feet of storage in the lower level. The first floor has 10,178 square feet of office or retail space and the second floor has 7,872 square feet of office or retail space. The two story brick structure was previously a “creamery” and has since been renovated for the current uses.

STAFF REVIEW: Staff has reviewed this request with respect to the four criteria established for On-Sale Liquor establishments identified in Section 17.50.185:

1. The request will not "adversely affect" the use of any place used for religious worship, school, park, playground, or similar use within five hundred (500) foot radius.

There are no places of religious worship or schools within a 500 foot radius. The area around the property is predominantly commercial. Staff's review of the proposed on-sale liquor establishment finds that the proposed use should have no significant adverse effect on the surrounding area.

2. The requested use is "sufficiently buffered" with respect to residential areas so as not to "adversely affect" such areas.

There are no single family residences located in the immediate area of the proposed on-sale liquor establishment. The closest residence is located approximately 800 feet from the property. Staff does not anticipate that the proposed use will have a significant negative impact on any residential area.

STAFF REPORT
October 8, 2009

No. 09PD047 - Planned Commercial Development - Initial and Final Development to include an on-sale liquor establishment **ITEM 32**

3. *The proposed use will not create an undue concentration of similar uses, so as to cause "blight, deterioration, or substantially diminish or impair property values."*

There is one on-sale liquor establishment, Roman's Bar, located at 100 St. Joseph Street, in the general area of the proposed use. This adjacent neighbor has indicated that parking may be an issue, especially with a large event at the hotel, if the additional use is allowed on the site. There does not appear to be a concentration of similar uses in this area that would cause blight, deterioration or would substantially diminish or impair property values. In addition, this on-sale liquor establishment is proposed to operate in conjunction with a full service restaurant, so any adverse effects may be mitigated.

4. *The proposed use has been reviewed under the Section 17.54.030(E) and Section 5.12.140.*

Staff has reviewed the proposed use with respect to Chapter 17.18 of the Rapid City Municipal Code and notes the following issues:

Land Use: The applicant has indicated that the on-sale alcohol use will be operated in conjunction with the restaurant. The restaurant will seat approximately 60 people. The restaurant is open for lunch from 10:30 a.m. to 2 p.m. Monday through Friday. On Friday and Saturday from 6:30 p.m. to 8:30 p.m. the restaurant is open for a dinner/show performance. During the holidays, there may be additional evening performances weekdays.

Parking: The applicant submitted a site plan indentifying 18 off-street parking spaces located on the south and west side of the building; however, those spaces do not comply with the minimum requirements of the City's adopted off-street parking requirements. Parking for the restaurant area of the property would require 32 off-street parking spaces, including two handicapped spaces. Additional parking is required for the other offices and retail uses located in the building. Based on the square footage of the first and second floors of the building, 10,178 square feet and 7,872 square feet, respectively, and the additional space in the lower level, 1,020 square feet that is not part of the restaurant, staff has determined that an additional 91 off-street parking spaces are required for a total of 123 off-street parking spaces. Of the 123 required off-street parking spaces, three are to be handicapped parking spaces with one of those being van-accessible. The parking spaces are based on office or retail use for the first and second floors as well as additional storage space located in the lower level.

Staff has reviewed the records to determine if the use is a legal nonconforming use or if a Variance was previously granted for the property. Records indicate that a creamery operated on the site until 1971. Since that date, various office and retail spaces have been located in the Creamery Mall. The 1968 Zoning Ordinance required off-street parking similar to that contained in the Ordinance today. Additionally, no record of a Variance being granted has been found. Based on this information, it appears that the use as it exists is an illegal use.

STAFF REPORT
October 8, 2009

No. 09PD047 - Planned Commercial Development - Initial and Final Development to include an on-sale liquor establishment **ITEM 32**

Previously, the applicant submitted a Conditional Use Permit for an on-sale alcohol establishment (09UR024). Staff identified alternatives available to the applicant to address the parking issues including: (1) Provide documentation indicating that a Variance has been granted for the building including the restaurant or that the restaurant is a legal nonconforming use; or (2) Apply for and obtain a zoning Variance from the Zoning Board of Adjustment; or (3) Resubmit the request as a Planned Commercial Development whereby the Planning Commission may grant an exception to allow a reduction in the required number of off-street parking spaces and to grant exceptions for the design of the existing off-street parking spaces. The applicant has submitted the Planned Commercial Development – Initial and Final Development to request an exception for the off-street parking issues.

The applicant has indicated that 18 off-street parking spaces are provided on the site. Six spaces located along the rear of the building have a 15 foot 6 inch aisle before backing into the alley right-of-way. In addition, a dumpster is located adjacent to a converted dock located at the rear of the building. Ten spaces along the west side of the building have a 17 foot aisle width. The Parking Ordinance requires a 26 foot aisle width and as such, the parking spaces cannot be counted towards the parking requirements. Two spaces along the west side of the building are parallel parking spaces using a driveway access. As the spaces block one access to the west side parking lot, they cannot meet the parking requirements. Two additional areas in the west parking lot have been striped for no parking. However, steps protrude into the spaces and the spaces are not marked as handicap spaces. As such, there are no handicap parking spaces for the building. The converted creamery building sits on the entire lot with the exception of a few areas where the 18 parking spaces have been made available. A hotel complex and two financial institutions with off-street parking for their businesses are located adjacent to The “Creamery” building. One adjacent neighbor has indicated that parking may be an issue, especially with a large event at the hotel, if the additional use is allowed on the site. There are parking lots with adequate parking for the adjacent businesses. On-street parking for the businesses located in the building as well as the adjacent businesses are located on both frontage streets. As such, staff recommends that an exception be granted requiring zero off-street parking spaces in lieu of the required 123 spaces. If changes are made to change or expand the use of the property in the future, a Major Amendment to the Planned Commercial Development must be submitted for review and approval to address any additional parking needs.

Dumpster: The dumpster located at the rear of the building is adjacent to a walkway that was a prior dock for the building. Screening the dumpster would enhance the aesthetic appearance of the building. However, it may be difficult to screen the dumpster due to the location adjacent to the dock. Staff recommends that an exception be given to the screening requirement at this time. However, any future expansions or changes in use may require the dumpster to be screened.

Landscaping: The property was constructed in 1929, prior to the adoption of the Parking and Landscaping Ordinances in 1968 and as such, landscaping was not required. Existing development not in compliance with the Landscaping Regulations are considered

STAFF REPORT
October 8, 2009

No. 09PD047 - Planned Commercial Development - Initial and Final Development to include an on-sale liquor establishment **ITEM 32**

nonconforming and are allowed to continue until such time as a building permit is granted to enlarge the structure or increase the occupant load by twenty percent or more. In accordance with Section 17.50.300 of the Rapid City Municipal Code, additional landscaping is not required for the proposed on-sale liquor establishment as there is not a 20 percent expansion at this time. The applicant should be aware that if changes are made to change or expand the use of the property by 20 percent or more, a Major Amendment to the Planned Commercial Development must be submitted for review and approval to address any landscaping needs.

Signage: A painted sign board for "The Beanery", measuring approximately 36 inches high by 30 inches wide, is located on the west side of the building facing the drive up lanes for the Black Hills Federal Credit Union. A sign posted in the window on the east side of the building comprise "The Beanery" and the menu choices. There are additional signs on the west side of the building including a sign for the "Jasper Law Office", measuring approximately 36 inches high by 30 inches wide, and a sign for "The Creamery Mall" measuring approximately 36 inches high by 60 inches wide. Along the east alley side, there is a "Shangri-la Hair Studio" sign, measuring approximately 18 inches high and 48 inches wide. A building identification sign for "The Fairmont Creamery" in block letters is located on the north and east sides of the building. The sign "Creamery" is also in block letters on a chimney stack above the roof. There are additional window signs located on the north and east sides of the building. All the current signs are in compliance and the Historic Sign Committee has reviewed and approved the signs. Any future signs will need a Sign Permit and shall comply with the Sign Code Regulations.

Fire Code: Staff noted that all applicable provisions of the International Fire Code shall be continually met. The Creamery Mall is in the process of updating the sprinkler system for the building. The Fire Department staff requests that the applicant coordinate and confirm the final installation of the fire sprinkler system in the first floor area with the Fire Department.

Historic property: The property is located on the National Register of Historic Places as an Individually Nominated property. However, the Planned Commercial Development including an on-sale alcohol establishment will not require review by the State of South Dakota. Any physical changes on the inside or outside of the building requiring a Building Permit will require a SDCL 11.1 Historic Review by the State Office of History. As the applicant is not requesting to make physical changes to the building, an historic review is not needed.

Notification: As of this writing, the required sign has been posted on the property but the receipts from the certified mailing have not been returned. Staff will notify the Planning Commission at the October 8, 2009 Planning Commission meeting if this requirement has not been met. Staff has received one support comment and one objection regarding parking for the proposed Planned Commercial Development at the time of this writing.

Staff is recommending that the Planned Commercial Development – Initial and Final Development Plan to include an on-sale liquor establishment be approved with the previously stated stipulations.